

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

CIVIL ACTION NO.: 5:12-CV-371-FL

GUSTAVO ROMANELLO and ACELA	)	
ROMANELLO,	)	
	)	
Plaintiffs,	)	
vs.	)	<b>DEFENDANT BANKUNITED, INC.'S</b>
	)	<b>MOTION TO STRIKE</b>
BANKUNITED, INC., BROCK & SCOTT,	)	
PLLC., RAGSDALE LIGGETT, PLLC.,	)	
ASHLEY H. CAMPBELL.	)	
	)	
Defendants.	)	
_____	)	

Defendant BankUnited, Inc. ("BankUnited") hereby moves to strike portions of the Response to BankUnited's Motion to Dismiss (the "Response") filed by the above-captioned plaintiffs (the "Plaintiffs") on October 9, 2012. In support of this Motion, BankUnited respectfully states as follows:

1. Plaintiffs commenced a civil action by filing a Complaint (the "Complaint") and Civil Summons in the United States District Court, Eastern District of North Carolina on or about July 30, 2012.
2. Defendant BankUnited, Inc. was served with a copy of the Civil Summons and Complaint on August 14, 2012.
3. In response to that Complaint, on September 4, 2012, BankUnited, Inc. timely filed and served its Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

4. On October 9, 2012, Plaintiffs filed the Response, attaching and making reference to several documents (the “Exhibits”) that were never included with their Complaint.
5. The Exhibits are materials outside the pleadings that may not properly be considered in the context of a motion to dismiss under Rule 12(b)(6).

WHEREFORE, BankUnited respectfully requests that the Exhibits be stricken and not considered by the Court when ruling on BankUnited’s Motion to Dismiss.

This the 23<sup>rd</sup> day of October, 2012

**YATES, MCLAMB & WEYHER, LLP**

/s/ SEAN T. PARTRICK

Sean T. Partrick

North Carolina State Bar No.: 25176

Email: [spartrick@ymwlaw.com](mailto:spartrick@ymwlaw.com)

*Attorneys for Defendant BankUnited, Inc.*

Post Office Box 2889

Raleigh, North Carolina 27602

Tel: 919-835-0900; Fax: 919-835-0910

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

CIVIL ACTION NO.: 5:12-CV-371-FL

GUSTAVO ROMANELLO and ACELA	)
ROMANELLO,	)
	)
Plaintiffs,	)
vs.	)
	)
BANKUNITED, INC., BROCK & SCOTT,	)
PLLC., RAGSDALE LIGGETT, PLLC.,	)
ASHLEY H. CAMPBELL.	)
	)
Defendants.	)
_____	)

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Robert S. Shields, Jr. ([shields@manningfulton.com](mailto:shields@manningfulton.com)) and Travis Emil Menk ([travis.menk@brockandscott.com](mailto:travis.menk@brockandscott.com)) and hereby certify that I have mailed the document to the following non CM/ECF Participants: Gustavo Romanello and Acela Romanello, 5445 Thunderidge Dr., Raleigh, NC 27610

This the 23<sup>rd</sup> day of October, 2012

**YATES, MCLAMB & WEYHER, LLP**

/s/ SEAN T. PARTRICK

Sean T. Partrick

North Carolina State Bar No.: 25176

Email: [spatrick@ymwlaw.com](mailto:spatrick@ymwlaw.com)

*Attorneys for Defendant BankUnited, Inc.*

Post Office Box 2889

Raleigh, North Carolina 27602

Tel: 919-835-0900; Fax: 919-835-0910